IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-11-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.25478 of 2007
and
MP No.2 of 2007

K.Shanmugam .. Petitioner

vs

1.State of Tamil Nadu
rep. By its Secretary to
Government
Municipal Administration and
Water Supply Department
Fort St. George
Chennai 600 009.
2.The Commissioner
Municipal Administration
Chepauk, Chennai 600 005.
3.The Commissioner
Karur Municipality
Karur. .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to G.O. (Ms) No.125 dated 27.5.1999 and G.O. (Ms) No.21 dated 23.2.2006 on the file of the first respondent and the consequential proceedings in Roc. No.62727/2006/F2 dated 27.3.2007 on the file of the second respondent and the notice of the third respondent in Na.Ka.No.F4/310/05 dated 18.4.2007, quash the same and direct the respondents to appoint the petitioner as a Town Planning Inspector in the existing vacancy of the third respondent municipality on regular basis by applying Rule 22 (C) of the Tamil Nadu State and Subordinate Service Rules.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mrs.Shanmugavalli Sekar
Government Advocate
(Education)

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ORDER

Invoking the writ jurisdiction of this Court, the petitioner seeks a writ of certiorarified mandamus to quash the G.O. (Ms) No.125 dated 27.5.1999, and G.O. (Ms) No.21 dated 23.2.2006, on the file of the first respondent and the consequential proceedings in Roc. No.62727/2006/F2 dated 27.3.2007, on the file of the second respondent and the notice of the third respondent in Na.Ka.No.F4/310/05 dated 18.4.2007, and direct the respondents to appoint the petitioner as a Town Planning Inspector in the existing vacancy of the third respondent Municipality on regular basis by applying Rule 22 (C) of the Tamil Nadu State and Subordinate Service Rules.

2.The case of the petitioner is as follows:

The petitioner who belonged to Scheduled Caste community and who studied Diploma in Civil Engineering, was appointed by the third respondent Municipality on 7.4.1997 on Non Muster Roll (NMR) basis as a Technical Assistant. He was working without break from that time onwards. Thus, he was entitled for regular appointment as Work Inspector; but, he was not regularized. Hence, he filed O.A.No.6592 of 1998 before the Tamil Nadu Administrative Tribunal, and there was a direction issued by the Tribunal on 17.8.1998, to consider his representation within the stipulated period. Accordingly, the third respondent called for an interview; but, the petitioner could not attend the interview due to family circumstances. The third respondent proposed to oust him from the service on the ground that he was only a NMR. Hence, he filed another application in O.A.No.4721 of 1999 before the Tamil Nadu Administrative Tribunal stating that he should not be ousted, and an order was also passed to that effect. At that time, the proposal was made for filling up the vacancy. Hence, the petitioner filed WP No.1515 of 2005 before this Court. While admitting the writ petition, an order came to be passed by this Court that the status quo should not be altered. Further, in that writ petition, final orders were passed on 6.7.2006, directing the Government to consider the proposal of the third respondent and pass suitable orders; but, it was kept pending. Again, the proposals were made for filling up the vacancy. Under the circumstances, he was necessitated to file WP No.21500 of 2007. In that writ petition, considering the facts and circumstances of the case, this Court directed the first respondent to consider the claim of the petitioner on merits and in accordance with law and in the light of the proceedings of the third respondent referred to in that petition within the stipulated time. Following that order, the request of the petitioner for regularization was rejected in view of G.O. (Ms) No.21 dated 23.2.2006, and G.O.(Ms) No.125 dated 27.5.1999. Under the circumstances, this writ petition has been brought forth before this Court.

3.In support of the case of the petitioner, the learned Counsel for the petitioner would submit that in the instant case, the G.Os. which are applied by the department for rejecting the regularization, are not correct; that the vacancy should be filled up by giving job opportunity to a person who belonged to the Scheduled Caste community to which the petitioner also belonged; that the application of the said GOs by the lower authority is not correct; that further, a representation was made by the petitioner on 28.6.2007, and hence, it has got to be considered.

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4.The Court heard the learned Government Advocate for the respondents on the above contentions.

5.Now, it is brought to the notice of the Court that the petitioner is not ousted from service; but, he continues to be so. Under the circumstances, this Court feels that it would suffice to issue a direction to the first respondent State to consider the representation of the petitioner dated 28.6.2007, and pass suitable orders on merits and in accordance with law as expeditiously as possible. Accordingly, a direction is issued, and this writ petition is disposed of. No costs. Consequently, connected MP is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

nsv/
To:

1.The Secretary to Government
Municipal Administration and
Water Supply Department
Fort St. George
Chennai 600 009.

2.The Commissioner
Municipal Administration
Chepauk, Chennai 600 005.

3.The Commissioner
Karur Municipality
Karur.

+1 cc to Mr.S.Doraisamy, Advocate Sr.No.66941.

+1 cc to The Government pleader Sr.No.67056.

RS(CO)
dcp/22.11

WP No.25478 of 2007

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